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Attorneys for Defendant  
INCOMM HOLDINGS, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

BARBARA FAFARD, individually and on behalf  
of a class of similarly situated individuals,

Plaintiff,

vs.

APPLE INC., BEST BUY CO., INC.; and  
INCOMM HOLDINGS, INC.,

Defendants.

Case No.: 3:12-cv-05125-EMC

**STIPULATED REQUEST AND  
[PROPOSED] ORDER TO EXTEND  
DEFENDANTS' TIME TO RESPOND TO  
PLAINTIFF'S COMPLAINT TO ALLOW  
THE PARTIES TO PARTICIPATE IN  
MEDIATION**

[Local Rules 6-1 and 7-12]

Hon. Edward M. Chen

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Pursuant to Local Rules 6-1 and 7-12, Plaintiff Barbara Fafard and Defendants Apple Inc., Best Buy Co. Inc., and InComm Holdings, Inc., through their respective counsel of record, hereby stipulate to extend the time for Defendants to respond to Plaintiff's Complaint. This extension of time will enable the parties to attempt to participate in a mediation, which shall be commenced in February 2013.

The parties shall file a joint status report informing the Court of the progress or outcome of the mediation on or before March 1, 2013. In the event that the parties' mediation efforts are continuing to progress as of March 1, 2013, they shall be permitted an additional 30 days to continue those efforts and, in such an event, will be required to file a joint status report by no later than April 1, 2013.

If any party deems the mediation efforts to be unsuccessful, they shall so advise the Court and within 21 days thereof the Defendants shall respond to Plaintiff's Complaint.

Should Defendants elect to file a Rule 12 motion, the date by which Plaintiff's response to any such motion would be due shall be extended by an additional 21 days.

The date by which any reply in further support of any Rule 12 motion shall be filed shall also be extended by an additional 14 days.

DATED: December 21, 2012

MARCUS & AUERBACH LLC

By /s/ Jonathan Auerbach

Jonathan Auerbach  
Attorney for Plaintiff  
BARBARA FAFARD

DATED: December 21, 2012

REED SMITH LLP

By /s/ Felicia Yu

Abraham J. Colman  
Felicia Yu  
Mathew M. Wrenshall  
Attorney for Defendants  
INCOMM HOLDINGS, INC. AND BEST BUY  
CO. INC.

1 DATED: December 21, 2012

PAUL HASTINGS

2  
3 By /s/ David M. Walsh

4 David M. Walsh  
5 Attorney for Defendant  
6 APPLE INC.  
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**FILER'S ATTESTATION**

I, Felicia Yu, attest that as the ECF filer of this Stipulation I obtained concurrence for this filing from all signatories to this document.

DATED: December 21, 2012

REED SMITH LLP

By /s/ Felicia Yu  
Felicia Yu  
Attorneys for Defendants  
INCOMM HOLDINGS, INC. AND BEST BUY  
CO. INC.

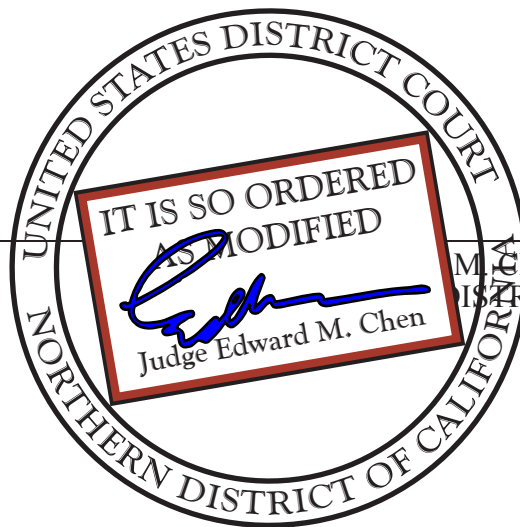
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**[PROPOSED] ORDER**

**PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED** that the Defendants' response date to Plaintiff's Complaint shall be extended so that the parties can participate in mediation. Defendants' response date to Plaintiff's Complaint shall be 21 days after any party advises the Court that mediation efforts have been unsuccessful. Plaintiff shall have an additional 21 days to respond to any dispositive motion that Defendants might file and Defendants shall have an additional 14 days to file a reply in support of any dispositive motion. The CMC is reset from 1/31/13 to 4/11/13 at 9:00 a.m.

**SO ORDERED:**

DATED: 1/3/13


 M. CHEN  
 DISTRICT COURT JUDGE

## PROOF OF SERVICE

I, Candice A. Spoon, declare as follows:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071-1514. On December 21, 2012, I served the following document(s) by the method indicated below:

### STIPULATED REQUEST AND [PROPOSED] ORDER TO EXTEND DEFENDANTS' TIME TO RESPOND TO PLAINTIFF'S COMPLAINT TO ALLOW THE PARTIES TO PARTICIPATE IN MEDIATION

<input checked="" type="checkbox"/>	BY CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the Court's website <a href="http://www.ecf.cand.uscourts.gov">www.ecf.cand.uscourts.gov</a>
<input type="checkbox"/>	by transmitting via facsimile on this date from fax number 213.457.8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 PM and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
<input type="checkbox"/>	by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
<input type="checkbox"/>	by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.
<input checked="" type="checkbox"/>	by transmitting via email to the parties at the email addresses listed below:

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<p>William A. Kershaw, Esq. Stuart C. Talley, Esq. Kershaw, Cutter &amp; Ratnoff LLP 401 Watt Avenue Sacramento, CA 95864 Tel: 916.448.9800 Fax: 916.669.4499 Email: stalley@kcrlegal.com, landerson@kcrlegal.com, wkershaw@kcrlegal.com, vburnsworth@kcrlegal.com</p>	<p>Attorneys for Plaintiff <i>Barbara Fafard</i></p>
<p>Jonathan Auerbach, Esq. (<i>admitted pro hac vice</i>) Jerome M. Marcus, Esq. (<i>admitted pro hac vice</i>) Marcus &amp; Auerbach LLC 101 Greenwood Avenue, Suite 310 Jenkintown, PA 19046 Tel: 215.885.2250 Fax: 888.875.0469 Email: jmarcus@marcusauerbach.com jauerbach@marcusauerbach.com cdodies@marcusauerbach.com</p>	<p>Attorneys for Plaintiff <i>Barbara Fafard</i></p>
<p>David M. Walsh, Esq. Katherine F. Murray, Esq. Adam M. Sevell, Esq. Paul Hastings LLP 515 South Flower Street, 25<sup>th</sup> Floor Los Angeles, CA 90071 Tel: 213.683.6000 Fax: 213.627.0705 Email: davidwalsh@paulhastings.com katherinemurray@paulhastings.com adamsevell@paulhastings.com</p>	<p>Attorneys for Defendant <i>Apple Inc.</i></p>

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on December 21, 2012, at Los Angeles, California.

/s/ Candice A. Spoon  
CANDICE A. SPOON

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